

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DIETRICK LEWIS JOHNSON, SR.,	§	
#19831-078	§	Civil Action No. 4:21-CV-416
	§	(Judge Mazzant/Judge Nowak)
v.	§	
	§	
TRACEY M. BATSON, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On June 30, 2021, the report of the Magistrate Judge (Dkt. #6) was entered containing proposed findings of fact and recommendations that Plaintiff Dietrick Lewis Johnson, Sr.'s Complaint be dismissed without prejudice for failing to comply with a Court order prohibiting him from filing any *pro se* motions, affidavits, or requests for relief without advance permission from the Court. Having received the report of the Magistrate Judge, considered Plaintiff's Objections (Dkt. #8), and conducted a de novo review, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

OBJECTION TO REPORT AND RECOMMENDATION

A party who files timely written objections to a magistrate judge's report and recommendation is entitled to a de novo review of those findings or recommendations to which the party specifically objects. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b)(2)–(3).

Plaintiff filed the instant lawsuit on June 1, 2021 (Dkt. #1). As the Magistrate Judge detailed, Plaintiff has previously filed numerous lawsuits and other collateral challenges in federal

court related to his 2013 conviction and sentence for carjacking (Dkt. #6 at pp. 1–3). Indeed, Plaintiff has twice now been admonished and subjected to monetary sanctions by the Fifth Circuit for his repetitive and frivolous filings (Dkt. #6 at pp. 2–3). More recently, on January 25, 2021, United States District Judge Marcia A. Crone of the Eastern District of Texas sanctioned Plaintiff for ignoring such warnings and continuing to file *pro se* motions and ordered Plaintiff to seek advance permission before filing any future *pro se* motions, affidavits, or requests for relief in this court (Dkt. #6 at pp. 3–4). The Magistrate Judge concluded Plaintiff did not comply with Judge Crone’s January 25, 2021, Order when he failed to seek advance permission before filing the instant Complaint *pro se*, and as such dismissal is warranted (Dkt. #6 at pp. 4–5).

On July 19, 2021, Plaintiff timely filed Objections to the Magistrate Judge’s report (Dkt. #8). Therein, Plaintiff raises numerous challenges directed to the merits of his claims. More specifically, he takes issue with the recommendation that his case be dismissed on the basis that Plaintiff is “not relitigating the issue’s [sic] he previously filed in his criminal case No. 4:12-CR-80(1)” and is instead “bringing forth civil right’s [sic] violations committed by these Defendants” (Dkt. #8 at p. 1). Plaintiff also argues “corruption and crimes of obstruction of justice, and the perjury and fraud on the appeals court” by Defendant Rafael De La Garza, II, “has no place in our criminal justice system and can never be procedurally barred” (Dkt. #8 at p. 4). Plaintiff further requests the Court put his case in abeyance until he can be transferred to another prison (Dkt. #8 at pp. 1, 4). Not one of Plaintiff’s Objections address the reason provided by the Magistrate Judge for recommending dismissal: Plaintiff’s failure to obtain advance permission of the court prior to filing the Complaint (Dkt. #8 at pp. 1–4). Plaintiff provides no meritorious basis for departing from the Magistrate Judge’s recommendation. Accordingly, the Court adopts the Magistrate Judge’s report in full.

CONCLUSION

Having considered Plaintiff that Plaintiff Dietrick Lewis Johnson, Sr.'s Objections (Dkt. #8), the Court adopts the Magistrate Judge's Report and Recommendation (Dkt. #6) as the findings and conclusions of the Court. Accordingly,

It is therefore **ORDERED** Plaintiff Dietrick Lewis Johnson, Sr.'s Complaint is **DISMISSED WITHOUT PREJUDICE**. Plaintiff Dietrick Lewis Johnson, Sr. is reminded he is barred from making further *pro se* filings in the Eastern District of Texas related to his conviction or sentence absent advance permission from the Court.

IT IS SO ORDERED.

SIGNED this 26th day of July, 2021.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE